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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,132	03/23/2005	Manfred Baumgartner	5696.P0009US	2572
23474 7590 10/04/2007 FLYNN THIEL BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1631			EXAMINER BOTTORFF, CHRISTOPHER	
			ART UNIT 3618	PAPER NUMBER
			MAIL DATE 10/04/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/529,132	<b>Applicant(s)</b> BAUMGARTNER ET AL.	
	<b>Examiner</b> Christopher Bottorff	<b>Art Unit</b> 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-11 and 14 is/are allowed.
- 6) ☒ Claim(s) 1-8, 12, and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to: See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The amendment filed July 30, 2007 has been entered. Claim 14 was added.

Claims 1-14 are pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-8, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meader et al. US 5,863,050 in view of Jones et al. US 6,557,866.

Meader et al. disclose a sliding board with a running sole 42, an upper shell 32, a lower web 44, steel edges 48, and a hardened foam core 36b. See Figures 4 and 5. A binding system arranging element is connected to the sliding board body by at least one anchoring element 18 that is integrated into the core 36b when the core 36b is foamed and is retained by the hardened foam. See Figures 4 and 5; column 1, line 63, through column 2, line 7; and column 6, lines 28-44.

The at least one anchoring element 18 is inserted through at least one preformed opening 52 in the upper shell 32, which at least one opening 52 surrounds the at least one anchoring element 18 without a gap. See Figure 4 and column 6, lines 43-44. The at least one anchoring element 18 has a threaded bore 22 and the threads form indentations and grooves. See Figure 4. The at least one anchoring element 18 is an

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elongated part made in one piece that extends upwardly from the core. See Figures 4 and 5. The at least one anchoring element 18 bears the binding system element when the binding system element is placed onto the at least one anchoring element 18, and the outwardly curved fillets 26 at the base of the at least one anchoring element 18 extend the surface area of the at least one anchoring element 18 such that the surface of the at least one anchoring element is enlarged for adhesion to the core material. See figures 4 and 5. The upper edge of at least one anchoring element 18 forms a cutting edge that presses against the opening in the upper shell. See Figure 4. Also, numerous anchoring elements 18 are interconnected by one or more plate-shaped connecting elements 20. See Figures 1 and 4.

Meader et al. do not disclose that the binding system arranging element is at least one rail-type guide element. However, Jones et al. teaches the desirability of providing a binding system arranging element that is connected to a sliding board as a rail-type guide element 54. See Figures 2 and 3. From the teachings of Jones et al., providing the binding system arranging element of Meader et al. as a rail-type guide element would have been obvious to one of ordinary skill in the art at the time the invention was made. This would utilize a structure that effectively holds a boot the sliding board. Furthermore, the apparatus resulting from this combination would be formed by the method of claims 8, 12, and 13 in accordance with the method of construction taught by Meader et al. See column 6, lines 28-44, of Meader et al.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meader et al. US 5,863,050 in view of Jones et al. US 6,557,866 as applied to claim 1 above, and further in view of Allmann et al. US 6,641,162.

The device resulting from the combination of Meader et al. and Jones et al. provides the binding system arranging element and anchoring element as two separate components that are screwed together, rather than a one piece structure as required by claim 5. However, integrally forming the two components as a one piece structure, rather than two separate components that must be joined during assembly, represents an obvious design choice. Moreover, Allmann et al. teach the desirability of providing a binding system arranging element 14 and an anchoring element 22 as a one piece structure. See Figure 5 and column 4, lines 21-26. Providing the binding system arranging element and anchoring element of the device resulting from the combination of Meader et al. and Jones et al. as a one piece structure would have been obvious to one of ordinary skill in the art at the time the invention was made. This would reduce the number of parts required to construct the sliding board.

#### ***Allowable Subject Matter***

Claims 9-11 and 14 are allowed. Claim 9 requires the sliding board to be produced by covering a gap between a shank of the anchoring element and the opening in the preformed shell from the underside by a sealing compound when the anchoring

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element has been positioned. This manufacturing step, in combination with the further limitations of the claim, is not taught by the prior art.

### ***Response to Arguments***

Applicant's arguments filed July 30, 2007 have been fully considered but they are not persuasive.

Applicants assert that the examiner's finding of obviousness is not proper and, citing In re Vaeck, state that the standard for determining obviousness requires "[t]he teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art." However, this is not the correct standard for determining obviousness. Among various rationales for determining obviousness, The U.S. Supreme Court recognized that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." See KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1395 (U.S. 2007). The Court further stated that "[o]ne of the ways in which a (claim's) subject matter can be proved obvious is by noting that there existed at the time of invention a known problem for which there was an obvious solution encompassed by the ... claim" and "under the correct analysis, any need or problem known in the field of endeavor at the time of the invention and addressed by the reference can provide a reason for combining the elements in the manner claimed." See KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1398 (U.S. 2007). Thus, under the correct standard for determining obviousness, a teaching or suggestion does

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not have to be found in the reference, as asserted by Applicants. Also, the combinations cited above yield predictable results and have a reasonable expectation of success.

In regard to claims 1 and 8, Maeder et al. disclose the claimed features, as noted in the rejection above, contrary to Applicants' contention. Maeder et al. disclose a sliding board having an element for arrangement of at least one binding element, with the element being connected to the sliding board body by an anchoring element 18 integrated into the core of the board when it is foamed. See Figures 4 and 5; and column 1, line 63, through column 2, line 7. Also, Maeder et al. disclose the method for producing a sliding board wherein at least one guide element for arranging and guiding a binding element is attached, by means of at least one anchoring element 18 passed through at least one opening in the preformed upper shell, with the core then foamed, so that the anchoring element is connected to the core when the foam hardens. See column 6, lines 28-44.

In regard to claim 5, the provision of the binding system arranging element and anchoring element of the device resulting from the combination of Meader et al. and Jones et al. as a one piece structure would have been obvious to one of ordinary skill in the art at the time the invention was made, as discussed in the rejection above.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

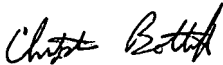
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (571) 272-6692. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher Bottorff  
Primary Examiner